STATEMENT OF REPRESENTATIVE EDWARD J. MARKEY (D-MA)
RELEASE OF GAO REPORT ON SELECTION OF ACCOUNTING BOARD
DECEMBER 19, 2002

I am pleased to be here today with my colleague from Massachusetts (Mr. Frank) to discuss the GAO's report on actions needed to improve the SEC's Public Accounting Oversight Board selection process. I want to commend him, as well as the gentleman from Michigan (Mr. Dingell) and the Senator from Maryland (Mr. Sarbanes) for requesting this report.

The GAO report reveals that SEC Chairman Pitt and his top staff approached their most important task since joining the agency without a plan, without a coherent process, and without proper consultation with SEC commissioners. As a result, Chairman Pitt and his senior staff botched the selection of members for the new accounting board created by the Sarbanes Act, and they managed to make worse the collapse of investor trust in the aftermath of widespread accounting scandals. Since the mission of the SEC is to instill investor trust, not kill it, the mismanagement of these appointments to the Public Accounting Oversight Board amount to an appalling failure, by Chairman Pitt and his team, of judgment, leadership and competence that continue to plague our economy today.

Instead of establishing the new accounting board on a sound, stable footing, Chairman Pitt mishandled the board selection process from the start.

First, he failed to develop a clear process for selecting and vetting board candidates.

Second, Chairman Pitt completely fumbled the consideration of John Biggs to be Chairman, first agreeing to support him and then backing away from him when another Commissioner objected to one of Chairman Pitt's other proposed nominees for the Board.

Then, once Chairman Pitt had settled on William Webster as a candidate for the Chairmanship of the Board, he failed to promptly investigate information provided by William Webster about his involvement with U.S. Technologies, a company that he described as on the brink of failure. On October 15th – 10 days before the Commission's vote --Chairman Pitt asked his Chief Accountant to look into the U.S. Technologies matter. But instead of contacting the SEC General Counsel's Office or the Division of Enforcement himself, Mr. Herdman merely asked his secretary to call up the Enforcement Division – which failed to identify any pending enforcement actions against the company.

<u>It was not until press reports the night before the Commission's scheduled vote raised questions about U.S. Technologies that Mr. Herdman actually directed his staff to review the companies' filings.</u> This, simple last-minute check revealed that at a time when Mr. Webster had served as chairman of U.S. Technologies' audit committee, the company had fired its auditor a month after material internal control weaknesses were reported. Despite the significance of this information to the SEC's consideration of Mr. Webster's qualifications to serve as chairman of the oversight board, the SEC's chief accountant decided not to pass this information along to the SEC Commissioners who were voting that very day on board membership. This comedy-of-errors has badly wounded the new accounting oversight board as it begins work on the important accounting reform agenda established by the Sarbanes Act.

The White House and the Republican-controlled Congress have made a bad situation even worse. Despite pledging support for corporate and accounting reforms, Republicans in Congress have twice refused to fund the SEC at the $776 million funding level provided in the bill, or to include funding for the new accounting oversight board in continuing resolutions passed to keep the government running. After fighting the Sarbanes Act until the eleventh hour, the Bush Administration now has frozen the SEC's budget at the 2002 levels, continuing them on their approximately $540 million annualized "starvation diet." This action denies them the funds necessary to effectively implement the new law. The Bush Administration has pledged to increase the SEC's funding, but not until 2004, which could be too late for many investors.

The appointment of William Donaldson to be the new SEC chairman provides the agency with a chance to revive the accounting oversight board. After his confirmation, the new SEC chairman should do a few things to signal change:

- First, he should establish a formal, systematic process for selecting and vetting candidates for the accounting board. The SEC must ensure that the future members are thoroughly vetted to avoid a repeat of the debacle surrounding the appointment of Mr. Webster.
- Second, he should select a chairman of the oversight board who is fully committed to implementing real reform of the accounting industry. The chairman of the new board should have extensive knowledge of the auditing profession and be a strong advocate for the interests of ordinary investors. If, in carrying out such a search, the name "John Biggs" pops up, we will know the system is working again. It is unfortunate that the pride and hubris of departing SEC Chairman Pitt and some of the Republican Commissioners seem to be preventing them from considering one of the best options for the investing public. Perhaps Mr. Donaldson will see things differently.
- Third, he should push for full, immediate funding of the SEC and the Board at the level authorized by the Sarbanes Act. The new accounting board is scheduled to begin its formal business in January, and it needs resources right away to hire staff and handle its heavy workload

The SEC has estimated that American families have lost an average of $60,000 each as a result of accounting fraud. While Chairman Pitt promised the accounting industry a "kinder and gentler" SEC, the new chairman should ensure that the SEC and the accounting board serve as an active and aggressive advocate for ordinary investors.

I urge the new SEC chairman to take advantage of the opportunity to strengthen the accounting board and appoint members who will carry out reforms that are consistent with the Sarbanes Act. As today's GAO report describes, the process for selecting members of the accounting board was badly flawed. Now the SEC needs to pick up the pieces and create a proactive, pro-investor board.

Jobs are at stake. A starving SEC is a weak SEC, and a weak SEC guarantees drift, uncertainty, and disinvestments in our capital formation system. It's time for Republicans in Congress to provide the board the funds it needs to root out the accounting tricks that have devastated the investment accounts of Americans across the country.